

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**PATTY BEALL, MATTHEW MAXWELL, §
TALINA MCELHANY AND KELLY §
HAMPTON, individually and on behalf of §
all other similarly situated, §**

PLAINTIFF,

Vs.

**TYLER TECHNOLOGIES, INC. AND §
EDP ENTERPRISES, INC. §**

DEFENDANTS. §

NO. 2:08-CV-422

**PLAINTIFFS' RESPONSE TO DEFENDANTS TYLER TECHNOLOGIES, INC. AND
EDP ENTERPRISES, INC. OBJECTIONS TO PLAINTIFFS' EXPERT DR. SCOTT D.
HAKALA AND MOTION TO STRIKE PORTIONS OF HAKALA'S EXPERT REPORT**

TO THE HONORABLE T. JOHN WARD:

Plaintiffs, Patty Beall, Matthew Maxwell, Talina McElhany and Kelly Hampton, individually and on behalf of all others similarly situated, file their Response to Defendants Tyler Technologies, Inc. and EDP Enterprises, Inc. Objections to Plaintiffs' Expert Dr. Scott D. Hakala and Motion to Strike Portions of Hakala's Expert Report, and respectfully requests that this court hold a hearing, and, after the hearing, deny Defendants' Motion to Strike Hakala's Expert Report as moot.

I. INTRODUCTION & STIPULATION

1.1 Plaintiffs sued Defendants for unpaid wages resulting from Defendants' misclassification of Plaintiffs under the Fair Labor Standards Act (the "FLSA"). Defendants claim

that they do not owe Plaintiffs any unpaid wages because Plaintiffs are exempt under the administrative and/or computer professional exemptions of the FLSA.

1.2 Defendants Motion to Strike is limited to Dr. Hakala's following opinion:

"...[B]ased on my experience, the salary levels and wage rates reported are customarily associated with less technical and non-managerial employment positions in this industry sector. Professional and technical employees typically earn salaries in the range of \$80,000 to \$120,000 and receive bonuses of %5 or more on average per annum. Greater skilled and more advanced professional and technical software engineers and managers typically earn even greater levels of compensation."

(Defendants' Motion to Strike in Part, p. 2). Plaintiff's stipulate they will not offer this opinion at trial. Based on Plaintiffs' stipulation, Defendants have agreed to withdrawal its Objections to Plaintiffs' Expert Dr. Scott D. Hakala and Motion to Strike Portions of Hakala's Expert Report.

III. CONCLUSION

3.2 Plaintiffs stipulate they will not offer Dr. Hakala's opinion concerning the salary level and wage rate ranges of other employees in Plaintiffs' industry sector. Based on Plaintiffs' stipulation, Defendants agree to withdraw its Motion.

IV. PRAYER FOR RELIEF

33. For these reasons, Plaintiff asks the Court to deny Defendant's objections as moot.

Respectfully submitted,

SLOAN, BAGLEY, HATCHER & PERRY
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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I certify that on November 18, 2010, I conferred with Defense Counsel, Paulo McKeeby. Counsel has complied with the meet and confer requirement in Local Rule CV-7(h) and Defense counsel is Unopposed to Plaintiff's Response and Stipulation and have agreed to withdraw their objection. The personal conference required by this rule was conducted on November 18, 2010, via teleconference.

By: /s/ Laureen F. Bagley
LAUREEN F. BAGLEY

CERTIFICATE OF SERVICE

I hereby certify that on this the 18th day of November, a true and correct copy of this document was sent via electronic mail to the following:

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